Court No.2

Writ Petition No1208 of 2002(S/B)

Dhani Ram and others …….. Petitioner

Versus

Union of India and others ……. Respondents

……..

Hon.P.C.Verma,J.
Hon.Irshad Hussain,J.

Heard learned counsel for the petitioners and Sri G.S.Bist, Senior Standing Counsel, Government of India.

The petitioners are working in a scheme adopted by the various State Governments, which was sponsored by the Union of India. The petitioners are still working in the same. There is no allegation regarding violation of any of the terms and conditions of the scheme on which they were engaged. The prayer for regularization of the petitioners is not tenable as the petitioners are not working against civil post.

Similar prayer for regularization was made by Employees employed in the District Rural Development Agency (DRDA) scheme and the Apex Court has rejected the claim for regularization in the case of Delhi Development Horticulture Employees Union Vs. Dehli Administration (1992)4 S.C.C. 99. The Apex Court rejecting the claim for regularization did not accept the argument that right to work is also included in right to livelihood under Article 21 of the Constitution of India as was urged in Olga Tellis Vs. Bombay Municipal Corporation,(1985)3 SCC 545 and it was observed as under:

> "Those employed under the scheme, therefore, could not ask for more then what the scheme intended to give them. To get an employment under such scheme and to claim on the basis of the said employment, a right to regularization, is to frustrate the scheme itself. No court can be a party to such exercise. It is wrong to approach the problems of those employed under such schemes with a view to providing them with full employment and guaranteeing equal pay for equal work. These concepts, in the context of such schemes are both unwarranted

> and misplaced. They will do more harm than good by depriving the many of the little income that they may get to keep them from starvation. They would benefit a few at the cost of the many starving poor from whom the schemes are meant. That would also force the State to wind up the existing schemes and forbid them from introducing the new ones, for want of resources."

In the present case, the petitioners are engaged on a honorarium. They are not in the full time employment. They are free to do their own vocation or calling apart from rendering voluntary services on a honorarium in the welfare scheme.

For the reasons recorded above, the petition is devoid of merit and is hereby dismissed in limine.

(P.C.Verma,J.)(Irshad Hussain,J.)

Dt.06.09.2002

A